

Submission to the Local Government Act Review

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Local governments have a mandate to provide good government for the area it represents. They achieve this by using their statutory powers to enforce rules and regulations and providing community services. However, there are economic, political and social factors that are challenging the traditional role of local government and it is argued in this submission that the starting point for the review of the Local Government Act 1995 should be a dialogue on the future of local government.

Government, Governance and Democracy

Government, governance and democracy are three terms often used interchangeably and intrinsically linked. They are used in every-day language but a deeper analysis of their meaning finds that there are different meanings and concepts which are beyond the scope of this submission (Julia King 2006, Pillora & McKinlay 2011). However, some discussion of the matter in relation to the structure of government, and local government, is of value in relation to consideration of the review of the local government act.

In Australia the Federal, State and Territory governments are based on the Westminster system of government with separation of powers between the government as executive decision maker (cabinet and ministers) and parliament as legislator. There is a formal role for the opposition party to question and to hold to account the government of the day. Although local governments in WA are governed by elected councils, they fall under the jurisdiction of the State government. The elected members of Councils are accountable to their electorate every four years when they must be re-elected, but during their terms of office accountability is achieved through compliance with the local government act and the powers given to regulatory authorities.

The Local Government Act and its regulations include provisions to avoid corruption, maintain a level of openness in decisions making, particularly in relation to financial matters, and to encourage good management practice. They are basically a combination of approaches that are characteristics of bureaucratic management and the managerialism of New Public Management (see discussion in the next section).

Councils are encouraged to act as a united board and therefore resemble executive government (cabinet) rather than parliament, and there is no process that replicates parliamentary debate and the role of an opposition as found in the Westminster form of government. As a result a high level of trust is placed on elected members and the administration to act in accordance with the expectations of the community. However, there are many difficulties and impediments to this some of which will be discussed below.

Purpose and Structure of Local Government

The introduction of the Local Government Act (Western Australia) 1995 provided general competency powers paving the way for local governments to expand the services they provided. It mirrored a global trend in moving government organisations from being bureaucracies to customer focussed service providers. Local governments increasingly adopted corporate structures and operated with business models mirroring the private sector, labelled as New Public Management (Hood, 1995).

New Public Management is characterised by its focus on providing services efficiently at minimal cost with quality being defined by the customers of the service. Mark H Moore in his book *Creating Public Value* (1995) argued that public agencies, including local governments, are different to private organisations and their purpose is not to just provide efficient services but rather to create public value for its citizens. In his book *Recognising Public Value* (2013) he has further developed his concepts around what he calls the Strategic Triangle consisting of:

- legitimacy and support;
- organisational capacity; and
- Public Value.

The concept of Public Value and the elements of the strategic triangle acknowledge the difference between public and private organisations, including the civil authority of government and the political processes in play.

Accountability and Trust

In the context of local government four spheres of accountability are prevalent.

- Political – accountability through elections
- Compliance and Integrity – conforming to regulations, personal and organisational conduct and ethical considerations.
- Participatory – processes to listen to community concerns and for the community to influence and be involved in decision making and other governance processes.
- Performance – identification of community priorities, measurement, reporting and public access to information.

The four spheres are interdependent and overlap. For example, community participation can assist with identifying priorities and provide information of results. A community actively engaged in achieving community outcomes is able to make informed decisions about their support for electoral policies.

In Australia, managers have been found to understand they have multiple accountabilities, including accountability to the state government, council, stakeholders and the broader community (Kloot and Martin 2001). However, research has indicated that accountability has shifted to a managerial form of accountability focussed on efficiency and financial management with diminished accountability to the broader community (Kluvers and Tippet, 2010). In Western Australia elected members and managers are expected to be accountable for the efficiency of their organisations. Additionally, there is a requirement for accountability in achieving desired community outcomes as reflected in the Integrated Planning and Reporting Framework guide (WA). There is also evidence that what citizens are most interested in are the issues that impact on their quality of life (Quinlivan, Nowack and Klass 2014).

The Public Value Triangle includes legitimacy and support, and trust is an important element of this. However, research has confirmed the significant anecdotal evidence that citizens' trust of government has declined (Pallora and McKinlay 2011). The Edelman Trust Barometer 2018 found a decline of trust in many countries including Australia (2018 Edelman Trust Barometer: Global Report)

New Forms of Governance and Democracy

In many jurisdictions there has been a move to new forms of democracy based on community engagement and empowerment (Pallora and KcKinlay 2011). As in other states, local governments in Western Australia are required to consult the community when developing their community and corporate plans and when making significant decisions. However, research indicates there is a preference for engaging with stakeholders to gain input to decisions rather than empowering citizens (Kahane et al, 2013). If community empowerment is the objective it will require a significant change in attitudes and approach.

The discussion so far has considered internal and external organisational processes of accountability. However, of equal importance are the values and moral beliefs of the various actors involved in the process, particularly elected members and staff (Kloot and Martin 2001). Creating public value requires managers, and I would argue elected members, to have an ethos and approach different to that found in traditional public management (bureaucracy) or New Public Management frameworks (Smith 2004).

A new approach to local government management is required in which public value is a policy goal (Mintrom & Luetjens 2015) and this will require a cultural shift by local government elected members and officers to change the mind-set, systems and functions of local government to achieve public value objectives by working with, rather than for, its community (citizens).

Conclusion

It is my contention that the current system of accountability and decisions making is not working and must be fundamentally changed. Attempts to strengthen it through changes to the Local Government Act (1995) are at best band-aids. We are entering into a period in which current economic, political and social forces require a paradigm shift in approaches to democracy and governance. It is essential to have as clear an idea as is possible of what local government in the future will look like if a new local government act is to be of relevance.

It is acknowledged that there are significant issues in local government that need to be addressed as soon as possible most of which are addressed in Phase 1 of the review and can be incorporated into amendments to the present act and regulations. However, a re-write of the Local Government Act 1995 will not address the issues being faced in the long-term. What is required is a wide ranging dialogue involving as broad a constituency as possible about the future of local government in Western Australia. The current dialogue on placed based democracy initiated by LoGoNet (<https://logonetdotorgdotau.wordpress.com/>) is a significant step in this direction and could inform thinking in relation to the review of the act.

The dialogue on the review of the Act should be informed by good research. There is a growing body of work now available including that of the former Australian Centre of Excellence for Local Government particularly the excellent research and analysis in *Why Local Government Matters* (Ryan et al 2015). The process to develop the new act should reflect the way in which we wish local government to operate as decided by the citizens of Western Australia and not elected members and professional staff. This should form the starting point for discussions about a new local government act to create an act that will have relevance for the decades to come.

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